IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

WP(C).No. 21477 of 2004(F)

PETITIONER:

SRI.K.B.JOY,
KALATHIPARAMBIL HOUSE, PERSONAL MANAGER (RETD.),
EDAVANAKKAD P.O., ERNAKULAM DIST.,
K.S.W. CORPORATION.

BY ADV. SRI.V.RAJENDRAN.

RESPONDENTS:
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1. **KERALA STATE WAREHOUSING CORPORATION,**
   REPRESENTED BY ITS MANAGING DIRECTOR, HEAD OFFICE,
   KOCHI.

2. **THE MANAGING DIRECTOR,**
   KERALA STATE WAREHOUSING CORPORATION, HEAD OFFICE,
   KOCHI.

BY ADV. SRI.MAJNU KOMATH, SC, K.S.W.C.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.21477/2004:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE JUDGMENT DTD. 13/03/2002 IN O.P. NO. 3259/2002.

EXT.P.2: COPY OF THE ORDER DTD. 18/07/2002 OF THE RESPONDENT.

EXT.P.3: COPY OF THE FILES RELATING TO SANCTION OF MEDICAL ADVANCE TO SMT. CELINE.

EXT.P.4: COPY OF THE JUDGEMENT DTD. 15/03/2004 IN O.P. NO. 25986/2002.

EXT.P.5: COPY OF THE ORDER DTD. 01/06/2004 OF THE RESPONDENT.

EXT.P.6: COPY OF THE SALARY ADVICE OF SMT. C.J. CELINE DTD. 27/02/2001.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

KURIAN JOSEPH J.

W.P.(C) No.21477 of 2004

Dated 6th July, 2007.

J U D G M E N T

Petitioner is aggrieved by the proceedings initiated against him leading to the fixation of liability to the tune of Rs.40,000/-. The amount represents the alleged irregular disbursement of medical advance to one Smt.C.J.Celin. The petitioner approached this Court earlier, leading to Ext.P1 judgment in O.P.No.3259/02, in which it was observed that "From the pleadings I find that in granting the alleged irregular advance, the petitioner may also be responsible along with others. The responsibility in disbursing the said amount shall be fixed and the same may be apportioned from among the persons who are parties to the decision." Despite such a direction, the first respondent again fixed the liability on the petitioner alone, which was challenged by the petitioner leading to Ext.P4 judgment in O.P.No.25986/02, wherein this Court at paragraph 3 of the judgment observed as follows :-

> "Taking notice of the facts and circumstances of the case, I direct that notwithstanding Ext.P4, reappraisal of the issue has to be made. To the extent possible, the deductions which might be permissible from the retirement benefits of Smt.Celine also are to be carried out. If such payment has already been made, the persons who might have been responsible also could be roped in if there is lethargy or oversight on their part. A

> dispassionate attempt should be made to assess the omission of all concerned and liability fixed only thereafter in proportion to their default. This should be done within a period of three months from the date of receipt of a copy of this judgment."

Even despite such a direction in unambiguous terms, Ext.P5 order is passed holding that the petitioner alone is responsible. Prima facie, it amounts to even contempt of court since the second respondent has not complied with the directions of this Court, despite the required clarification. However, in view of the persuasive submission made by the learned counsel appearing for the second respondent, I refrain from proceeding further in the matter. I quash Ext.P5. There will be a direction to the second respondent to fix the liability among all the persons who are involved, including Smt.Celin and the officers who sanctioned the retirement benefits to Smt.Celin, and make the petitioner liable only to the extent of his part. This shall be done within a period of three months from the date of production of a copy of the judgment. Depending on the order thus passed by the second respondent, the amount due to the petitioner shall be disbursed to him with 8% interest, within another one month.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J.

O.P. NO. OF 200

J U D G M E N T

Dated 6th July, 2007.